

FORM NLRB-501
(3-21)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**Case
13-CA-305120Date Filed
10/12/2022**INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer MIDTOWN ATHLETIC CLUBS, LLC, and/or TENNIS CORPORATION OF AMERICA 4958 732 5		b. Tel. No. 773-796-6523
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 3611 N KEDZIE AVE CHICAGO, IL 606184513	e. Employer Representative (b) (6), (b) (7)(C)	g. e-mail (b) (6), (b) (7)(C)midtown.com
		h. Number of workers employed 300+
i. Type of Establishment (factory, mine, wholesaler, etc.) Sports and fitness	j. Identify principal product or service Service & athletic facility	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

I was discharged in retaliation after me and several workers complained to management regarding some practices and attitudes in the workplace, falsely alleging that I made "disparaging remarks".

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No.**4c. Cell No.**

I was discharged in retaliation after

4d. Fax No.**4e. e-mail**

(b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

Arise Chicago Worker Center / Jorge Mujica

6. DECLARATION

(b) (6), (b) (7)(C) I declare the above charge and that the statements are true to the best of my knowledge and belief.

(Signature)

(Print/type name and title or office, if any)

1700 W Hubbard St, 2E, Chicago, IL 60622

Address

Date

10/7/2022

Tel. No.

773-844-9910

Office, if any, Cell No.

773-769-6000

Fax No.

844-290-4426

e-mail

jorge@arisechicago.org

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 13
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, IL 60604-2027

Agency Website: www.nlr.gov
Telephone: (312)353-7570
Fax: (312)886-1341



Download
NLRB
Mobile App

October 13, 2022

(b) (6), (b) (7)(C)

3611 N Kedzie Ave
Chicago, IL 60618

Re: Midtown Athletic Clubs, LLC and/or Tennis
Corporation of America 4958 732 5
Case 13-CA-305120

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Kevin McCormick whose telephone number is (312)353-7594 and whose e-mail address is kevin.mccormick@nlrb.gov. If this Board agent is not available, you may contact Supervisory Examiner Kate Gianopulos whose telephone number is (312)353-4162.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge by October 26, 2022. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board

October 13, 2022

agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

October 13, 2022

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. To ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Controlled Unclassified Information (CUI): This National Labor Relations Board (NLRB) proceeding may contain Controlled Unclassified Information (CUI). Subsequent information in this proceeding may also constitute CUI. National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Angie Cowan Hamada", with a long horizontal flourish extending to the right.

Angie Cowan Hamada
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 13-CA-305120
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
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4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
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12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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PRIVACY ACT STATEMENT

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**MIDTOWN ATHLETIC CLUBS, LLC AND/OR
TENNIS CORPORATION OF AMERICA 4958
732 5**

Charged Party

and

(b) (6), (b) (7)(C)

Charging Party

Case 13-CA-305120

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on October 13, 2022, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

3611 N Kedzie Ave
Chicago, IL 60618

October 13, 2022

Date

Brendan Zarling, Designated Agent of
NLRB

Name

/s/ Brendan Zarling

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 13
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, IL 60604-2027

Agency Website: www.nlr.gov
Telephone: (312)353-7570
Fax: (312)886-1341



Download
NLRB
Mobile App

October 13, 2022

(b) (6), (b) (7)(C)

Re: Midtown Athletic Clubs, LLC and/or Tennis
Corporation of America 4958 732 5
Case 13-CA-305120

Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on October 12, 2022 has been docketed as case number 13-CA-305120. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Kevin McCormick whose telephone number is (312)353-7594 and whose e-mail address is kevin.mccormick@nlrb.gov. If this Board agent is not available, you may contact Supervisory Examiner Kate Gianopulos whose telephone number is (312)353-4162.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB

October 13, 2022

office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Angie Hamada", with a long horizontal flourish extending to the right.

Angie Cowan Hamada
Regional Director

cc: Jorge Mujica, Organizer
1700 W Hubbard Street, 2E
Chicago, IL 60622

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

(b) (6), (b) (7)(C)

Charging Party,

and

Tennis Corporation of America,

Employer.

Case No. 13-CA-305120

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY NATIONAL
LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL NATIONAL
LABOR RELATIONS BOARD
Washington, DC 20570

The undersigned hereby enters appearance as representative of: Tennis Corporation of America,
in the above-captioned matter.

Check the appropriate box(es) below:

☒ Representative is an Attorney

☒ If Representative is an Attorney, in order to ensure that the party may receive copies of certain documents or correspondence from the Agency in addition to those described below, this box must be checked. If this box is not checked, the Party will receive only copies of certain documents such as Charges, Petitions and formal documents as described in Sec. 11842.3 of the Casehandling Manual.

(REPRESENTATIVE INFORMATION)

Representative's Names: Amber Cox

Company: Laner Muchin, Ltd.

Address: 515 N. State Street, Suite 2800

City, State, Zip: Chicago, Illinois 60654

Cell Phone: 260-403-7159

Emails: acox@lanermuchin.com

Amber Cox

Signature

October 27, 2022

Date

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

(b) (6), (b) (7)(C)
Charging Party,
and
Tennis Corporation of America,
Employer.

Case No. 13-CA-305120

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY NATIONAL
LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL NATIONAL
LABOR RELATIONS BOARD
Washington, DC 20570

The undersigned hereby enters appearance as representative of: Tennis Corporation of America,
in the above-captioned matter.


Check the appropriate box(es) below:

☒ Representative is an Attorney

☒ If Representative is an Attorney, in order to ensure that the party may receive copies of certain documents or correspondence from the Agency in addition to those described below, this box must be checked. If this box is not checked, the Party will receive only copies of certain documents such as Charges, Petitions and formal documents as described in Sec. 11842.3 of the Casehandling Manual.

(REPRESENTATIVE INFORMATION)

Representative's Names: Andrew S. Goldberg
Company: Laner Muchin, Ltd.
Address: 515 N. State Street, Suite 2800
City, State, Zip: Chicago, Illinois 60654
Cell Phone: 312-543-8830
Emails: agoldberg@lanermuchin.com


Signature

October 27, 2022

Date

¹ If case is pending in Washington and Notice of Appearance is sent to the General counsel or the Executive Secretary, a copy should be sent to the Regional Director of the Region in which the case was filed so that those records will reflect the Appearance.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

**MIDTOWN ATHLETIC CLUBS, LLC AND/OR
TENNIS CORPORATION OF AMERICA 4958 732**

5

and

Case 13-CA-305120

(b) (6), (b) (7)(C) An Individual

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by **(b) (6), (b) (7)(C)** an Individual (Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Midtown Athletic Clubs, LLC and/or Tennis Corporation of America 4958 732 5 (Respondent) has violated the Act as described below.

I.

(a) The charge in this proceeding was filed by the Charging Party on October 12, 2022, and a copy was served on Respondent by U.S. mail on that same date.

II.

(a) At all material times, Respondent, an Illinois limited liability corporation with an office and place of business in Chicago, Illinois, has been engaged in the business of an athletic club with spa and restaurant.

(b) During the past calendar year, a representative period, Respondent, in conducting its operations described above in paragraph II(a), derived gross annual revenues in excess of \$500,000.

(c) During the past calendar year, a representative period, Respondent, in conducting its business operations described above in paragraph II(a), purchased and received at its Chicago, Illinois, facilities goods and services in valued in excess of \$5,000 directly from points outside the State of Illinois.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

III.

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act):

(b) (6), (b) (7)(C)

IV.

(a) About (b) (6), (b) (7)(C) 2022, (b) (6), (b) (7)(C) engaged in concerted activities with other employees for the purposes of mutual aid and protection by seeking to assist (b) (6), (b) (7)(C) coworkers and /or discussing wages, hours and/or other terms and conditions of employment with (b) (6), (b) (7)(C) coworkers.

(b) About (b) (6), (b) (7)(C), 2022, Respondent terminated (b) (6), (b) (7)(C)

(c) Respondent engaged in the conduct described above in paragraphs IV(b), because employees engaged in the conduct described above in paragraph IV(a), and to discourage employee(s) from engaging in these or other concerted activities.

V.

By the conduct described above in paragraph IV, Respondent has been interfering with, restraining, and coercing employees in the exercise of their rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

VI.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

The GC seeks, as part of the remedy for the ULP practices alleged in Paragraph IV(b) – (c), that Respondent be required to submit the W-2 reflecting backpay paid to the discriminatee to the Regional Director.

The General Counsel further seeks an order requiring Respondent to make the affected employees whole for any loss of earnings and other benefits, and for any other direct or foreseeable pecuniary harms suffered as a result of their unlawful layoff.

Further, Respondent be ordered to send a letter of apology to Charging Party (b) (6), (b) (7)(C) by United States Mail and by email, with a courtesy copy to Region 13's Regional Director. The letter shall be on Respondent's letterhead and signed by Respondent's (b) (6), (b) (7)(C).

The General Counsel further seeks a broad cease-and-desist order requiring Respondent to cease and desist “in any other manner” from interfering with, restraining, or coercing employees in the exercise of their Section 7 rights, and that the Order provides the full panoply of remedies available, including consequential damages, to ensure that the victim of this unlawful conduct are made whole for losses suffered as a result of Respondent’s unfair labor practices.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board’s Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before February 24, 2023, or postmarked on or before February 23, 2023.** Respondent also must serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency’s website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency’s website informs users that the Agency’s E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency’s website was off-line or unavailable for some other reason. The Board’s Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board’s Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **June 5, 2023, 10:00 a.m. at The Dirksen Federal Building, 219 South Dearborn Street, Suite 808, Chicago, IL 60604, or via Zoom Videoconference**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Chicago, Illinois this 10th day of February 2023.

/s/ Angie Cowan Hamada

Angie Cowan Hamada
Regional Director
National Labor Relations Board
Region 13
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, IL 60604

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 13-CA-305120

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

(b) (6), (b) (7)(C)

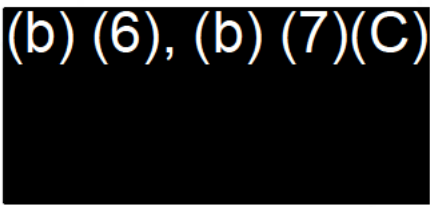
3611 N Kedzie Ave
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Amber L. Cox , ESQ.
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Andrew S. Goldberg
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Chicago, IL 60654-4688
agoldberg@lanermuchin.com

(b) (6), (b) (7)(C)



Jorge Mujica , Organizer
1700 W Hubbard Street, 2E
Chicago, IL 60622
jorge@arisechicago.org

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
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- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

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- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

**MIDTOWN ATHLETIC CLUBS, LLC AND/OR
TENNIS CORPORATION OF AMERICA 4958 732**

5

and

Case 13-CA-305120

(b) (6), (b) (7)(C) An Individual

AFFIDAVIT OF SERVICE OF: COMPLAINT AND NOTICE OF HEARING (with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **February 10, 2023**, I served the above-entitled document by **e-issuance, certified, or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)
3611 N Kedzie Ave
Chicago, IL 60618
(b) (6), (b) (7)(C)midtown.com

Amber L. Cox, Attorney
Laner Muchin, Ltd.
515 North State Street, Suite 2800
Chicago, IL 60654-4821
acox@lanermuchin.com

Andrew S. Goldberg
Laner Muchin, Ltd.
515 North State Street, Suite 2800
Chicago, IL 60654-4688
agoldberg@lanermuchin.com

(b) (6), (b) (7)(C)

Jorge Mujica , Organizer
1700 W Hubbard Street, 2E
Chicago, IL 60622
jorge@arisechicago.org

February 10, 2023

Date

Loretta Thompson, Designated Agent of
NLRB

Name

/s/ Loretta Thompson

Signature

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 13-CA-305120

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

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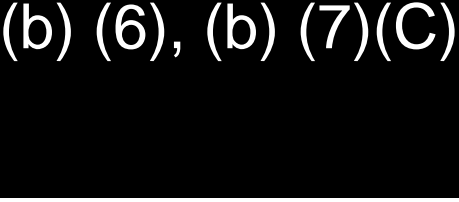
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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

(b) (6), (b) (7)(C),)	
Charging Party,)	
)	
and)	
)	Case No. 13-CA-305120
TENNIS CORPORATION OF)	
AMERICA 4958 732,)	
Respondent,)	

ANSWER TO COMPLAINT

NOW COMES Respondent, by and through its attorney, Andrew S. Goldberg of Laner Muchin, Ltd., and for its Answer to Charging Party's Complaint, states as follows:

This Complaint and Notice of Hearing is based on a charge filed by (b) (6), (b) (7)(C) an Individual (Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Midtown Athletic Clubs, LLC and/or Tennis Corporation of America 4958 732 5 (Respondent) has violated the Act as described below.

ANSWER: Respondent denies that it has violated the Act.

I.

(a) The charge in this proceeding was filed by the Charging Party on October 12, 2022, and a copy was served on Respondent by U.S. mail on that same date.

ANSWER: Respondent lacks actual knowledge to admit or deny the date Charging Party filed the Charge. Respondent lacks actual knowledge to admit or deny the date on which the Charge was placed in the United States Mail to be served on Respondent.

II.

(a) At all material times, Respondent, an Illinois limited liability corporation with an office and place of business in Chicago, Illinois, has been engaged in the business of an athletic club with spa and restaurant.

ANSWER: The Respondent admits that it is an Illinois limited liability corporation with an office and place of business in Chicago, Illinois. The Respondent admits that it owns and operates a tennis and health club that has a restaurant and spa services. The Respondent lacks sufficient knowledge or information to admit or deny to what the Board refers to as “At all material times.”

(b) During the past calendar year, a representative period, Respondent, in conducting its operations described above in paragraph II(a), derived gross annual revenues in excess of \$500,000.

ANSWER: The Respondent admits the allegations set forth in Paragraph II.(b).

(c) During the past calendar year, a representative period, Respondent, in conducting its business operations described above in paragraph II(a), purchased and received at its Chicago, Illinois, facilities goods and services in valued in excess of \$5,000 directly from points outside the State of Illinois.

ANSWER: The Respondent admits the allegations set forth in Paragraph II.(c).

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

ANSWER: The Respondent lacks sufficient knowledge or information to admit or deny to what the Board refers to as “At all material times.” The Respondent admits that it is an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

III.

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act):

(b) (6), (b) (7)(C)

ANSWER: The Respondent lacks sufficient knowledge or information to admit or deny to what the Board considers “At all material times.” The Respondent admits the remaining allegations set forth in Paragraph III.

IV.

(a) About (b) (6), (b) (7)(C) 2022, (b) (6), (b) (7)(C) engaged in concerted activities with other employees for the purposes of mutual aid and protection by seeking to assist (b) (6), (b) (7)(C) coworkers and /or discussing wages, hours and/or other terms and conditions of employment with (b) (6), (b) (7)(C) coworkers.

ANSWER: The Respondent denies the allegations set forth in Paragraph IV.(a).

(b) About (b) (6), (b) (7)(C), 2022, Respondent terminated (b) (6), (b) (7)(C)

ANSWER: The Respondent lacks sufficient knowledge or information to admit or deny to what the Board means by “about (b) (6), (b) (7)(C) 2022.” The Respondent admits that it discharged (b) (6), (b) (7)(C) and affirmatively states that the discharge was for lawful reasons.

(c) Respondent engaged in the conduct described above in paragraph IV(b), because employees engaged in the conduct described above in paragraph IV(a), and to discourage employee(s) from engaging in these or other concerted activities.

ANSWER: The Respondent denies the allegations set forth in Paragraph IV.(c).

V.

By the conduct described above in paragraph IV, Respondent has been interfering with, restraining, and coercing employees in the exercise of their rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

ANSWER: The Respondent denies the allegations set forth in Paragraph V.

VI.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER: The Respondent denies the allegations set forth in Paragraph VI.

The GC seeks, as part of the remedy for the ULP practices alleged in Paragraph IV(b) — (c), that Respondent be required to submit the W-2 reflecting backpay paid to the discriminatee to the Regional Director.

ANSWER: The Respondent denies that any backpay is due and owing and, thus, that the remedy should be granted.

The General Counsel further seeks an order requiring Respondent to make the affected employees whole for any loss of earnings and other benefits, and for any other direct or foreseeable pecuniary harms suffered as a result of their unlawful layoff.

ANSWER: The Respondent denies that any backpay is due and owing. The Respondent denies that any benefits or any other direct or foreseeable pecuniary harms exist or are due and owing to Charging Party.

Further, Respondent be ordered to send a letter of apology to Charging Party (b) (6), (b) (7)(C) by United States Mail and by email, with a courtesy copy to Region 13's Regional Director. The letter shall be on Respondent's letterhead and signed by Respondent's Housekeeping (b) (6), (b) (7)(C)

ANSWER: The Respondent denies that the Board has the authority to require or award such a remedy. The Respondent denies that such a remedy is even warranted in this matter.


The General Counsel further seeks a broad cease-and-desist order requiring Respondent to cease and desist "in any other manner" from interfering with, restraining, or coercing employees in the exercise of their Section 7 rights, and that the Order provides the full panoply of remedies available, including consequential damages, to ensure that the victim of this unlawful conduct are made whole for losses suffered as a result of Respondent's unfair labor practices.

ANSWER: Respondent denies any unlawful actions occurred and/or that any such remedy is warranted.

Dated: February 16, 2023

Respectfully submitted,

Tennis Corporation of America, Respondent

By: 
Andrew S. Goldberg
One of Its Attorneys

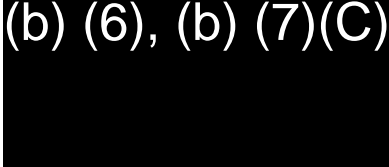
Andrew S. Goldberg
LANER MUCHIN, LTD.
515 North State Street, Suite 2800
Chicago, IL 60654
(312) 467-9800 / (312) 467-9429 (fax)
Attorneys for Respondent Tennis
Corporation of America

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**


(b) (6), (b) (7)(C),)	
Charging Party,)	
)	
and)	
)	Case No. 13-CA-305120
TENNIS CORPORATION OF)	
AMERICA 4958 732,)	
Respondent,)	


CERTIFICATE OF SERVICE

Andrew S. Goldberg, an attorney, hereby certifies that he electronically filed the foregoing Answer to Complaint with the National Labor Relations Board, and served a copy thereof upon the parties of record listed below via email before 5:00 p.m. on this 16th day of February 2023.

(b) (6), (b) (7)(C)


Jorge Mujica, Organizer
1700 West Hubbard Street, 2E
Chicago, Illinois 60622
jorge@arisechicago.org

Tennis Corporation of America
(b) (6), (b) (7)(C)

3611 North Kedzie Avenue
Chicago, Illinois 60618
(b) (6), (b) (7)(C) [@midtown.com](mailto:(b) (6), (b) (7)(C)@midtown.com)



Andrew S. Goldberg

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

**MIDTOWN ATHLETIC CLUBS, LLC AND/OR
TENNIS CORPORATION OF AMERICA 4958 732
5**

and

Case 13-CA-305120

(b) (6), (b) (7)(C) An Individual

ORDER RESCHEDULING HEARING

On February 10, 2023, a Complaint and Notice of Hearing issued in the above-captioned matter. The hearing in the above-captioned matter was scheduled to commence on June 5, 2023.

IT IS HEREBY ORDERED that the hearing in the above-captioned case be and hereby is, rescheduled to 10:00 a.m., on July 24, 2023, at 219 South Dearborn, Room 808, Chicago, IL 60604. The hearing will continue on consecutive days until concluded.

DATED at Chicago, Illinois, this 14th day of March 2023.

/s/ **Angie Cowan Hamada**

Angie Hamada
Regional Director
National Labor Relations Board
Region 13
219 South Dearborn, Room 808
Chicago, Il 60604-1443

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

**MIDTOWN ATHLETIC CLUBS, LLC
AND/OR TENNIS CORPORATION
OF AMERICA 4958 732 5**

and

Case 13-CA-305120

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ORDER WITHDRAWING COMPLAINT AND CHARGE

On February 10, 2023, the Regional Director for Region 13 issued a Complaint and Notice of Hearing. The hearing for this matter was scheduled for June 5, 2023.

On March 20, 2023, the Charging Party requested withdrawal of the charge against Respondent based upon a private agreement between the parties on the matters underlying this charge. I have approved this withdrawal request, conditioned on the performance of the undertakings in the private agreement between the parties. The charge is subject to reinstatement for further processing if the charging party's request for reinstatement is supported by evidence of noncompliance with the undertakings in the private agreement.

IT IS HEREBY ORDERED, pursuant to Section 102.18 of the Board's Rules and Regulations, Series 8, as amended, that the Complaint and Notice of Hearing is withdrawn.

IT IS HEREBY ORDERED, pursuant to Section 102.9 of the Board's Rules and Regulations, Series 8, as amended, that the request of the Charging Party to withdraw the charges is approved.

Dated at Chicago, Illinois this 22nd day of March, 2023.

/s/ Angie Cowan Hamada

Angie Cowan Hamada, Regional Director
National Labor Relations Board
Region 13
219 S. Dearborn, Room 808
Chicago, IL 60604